

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of KAYLA CANTU and ALYSSA  
RENEE CANTU, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ERICA RAE ESQUIBEL,

Respondent-Appellant.

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UNPUBLISHED

July 22, 2004

No. 250204

Wayne Circuit Court

Family Division

LC No. 99-384047

Before: Jansen, P.J., and Meter and Cooper, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). We review the trial court's findings of fact under the clearly erroneous standard. MCR 3.977(J)<sup>1</sup>; *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Under this standard, the trial court's decision "must strike [the reviewing court] as more than just maybe or probably wrong." *In re Trejo, supra* at 341, quoting *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *In re Miller, supra* at 337. This gives due regard to the trial court's unique ability to assess the witnesses' credibility. *Id.*

We agree that the trial court erred in finding sufficient evidence to terminate respondent's parental rights under § 19b(3)(c)(i), failure to rectify the conditions that led to adjudication. Respondents' children were adjudicated temporary court wards on the basis of medical findings

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<sup>1</sup> Formerly MCR 5.974(I).

that the younger child had been physically abused and deliberately mistreated by an adult. The children's father later accepted blame for harming the child, and respondent discontinued her relationship with him while this case was pending. At the time this case concluded, petitioner was no longer pursuing abuse issues with respondent, but instead was focusing on her responsibility and commitment to caring for the children. Petitioner acknowledged that there was no evidence that the children were harmed during the two-week period when they were in respondent's care and petitioner did not know where they were. Accordingly, there was insufficient evidence that the children were still at risk of abuse if returned to respondent's care.

However, the trial court is only required to find a ground for termination under one statutory provision, and there was sufficient evidence to terminate respondent's parental rights under § 19b(3)(g), failure to provide proper care and custody. *In re Sours, supra* at 632. Petitioner presented clear and convincing evidence that respondent remained irresponsible in her personal affairs and in her dealings with petitioner, although petitioner offered counseling and other rehabilitative services. And, respondent had more than two years to reform herself. Respondent failed to work with her therapist, Wendy Myers, in therapy sessions, and, although respondent attempted to shift the blame to Myers, she never made earnest efforts to find a more helpful therapist. Respondent missed nearly half of the required drug screens, gave uncorroborated excuses for missing the screens, and tested positive for drug use three times; twice in the midst of termination hearings. Respondent failed to find a job with sufficient income to support her children, and a large portion of her income came from undocumented tips. Although respondent stated that she was interested in a medical assistant program, she made only marginal efforts to find a program and apply for financial aid, even at a time when she worked less than full time and did not have custody of her children.

Considering respondent's chronic failure to reform herself during the protracted pendency of this case, even with the most compelling incentive to do so, the trial court did not clearly err in finding that termination was warranted under § 19b(3)(g).

Affirmed.

/s/ Kathleen Jansen  
/s/ Patrick M. Meter  
/s/ Jessica R. Cooper